

*Periodic Report on the National Emergency
With Respect to Burma*

I hereby report to the Congress on developments over the course of the past six months concerning the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997, pursuant to, *inter alia*, section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208), and the International Emergency Economic Powers Act ("IEEPA"). This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of IEEPA, 50 U.S.C. 1703(c), and Executive Order 13313 of July 31, 2003.

1. On July 28, 2003, the President signed Executive Order 13310 ("the Order"), putting in place new sanctions with respect to Burma in addition to those imposed by Executive Order 13047 of May 20, 1997. The Order prohibits the exportation of financial services to Burma and the importation into the United States of products of Burma. The prohibition on the importation of products of Burma implemented, in part, the Burmese Freedom and Democracy Act of 2003, which was signed on the same day as the Order. In addition, the Order blocks the property and interests in property of four entities listed in the Annex to the Order and of any persons designated in the future by the Secretary of the Treasury, in consultation with the Secretary of State, pursuant to the Order. This measure also implemented, in part, the Burmese Freedom and Democracy Act of 2003. The Department of the Treasury's Office of Foreign Assets Control ("OFAC") has published 13 general licenses authorizing activities such as the importation of diplomatic property that is a product of Burma and the exportation of financial services

incident to exports to Burma. A copy of the Order is attached to this report.

2. During the current reporting period, as of November 3, 2003, OFAC has issued 47 specific licenses authorizing the release of blocked funds transfers, after OFAC determined that there was no designated entity property interest in the funds, one license authorizing humanitarian donations, and one specific license authorizing an international educational facility to continue its operations in Burma.

3. As of November 3, 2003, OFAC has blocked 421 transactions totaling more than \$11.3 million during this reporting period. Under the Burmese Sanctions Regulations, 31 C.F.R. Part 537 (the "Regulations"), and the Order, transactions in violation of the sanctions where there is no blockable interest of entities named in the Annex to the Order must be returned to the remitters ("rejected"). During this reporting period 329 such transactions were rejected by U.S. banks resulting in a disruption of approximately \$27.1 million in business for Burma. OFAC has neither assessed nor collected any civil monetary penalty for a violation of the Regulations or the Order. In addition, as of November 3, OFAC has authorized 10 NGOs to conduct humanitarian relief operations in Burma.

4. The expenses incurred by the Federal Government in the six-month period from May 20, 2003, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Burma, are estimated at more than \$330,000, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control

and the Office of the General Counsel), the Bureau of Customs and Border Protection, and the Department of State.

5. Prospects for the restoration of democracy in Burma remain at a standstill. The movement toward democratic change in Burma, led by Aung San Suu Kyi and the National League for Democracy ("NLD"), was dealt a devastating blow on May 30th when government-affiliated thugs carried out a premeditated ambush on her convoy of NLD party members and supporters. Since the May 30 attack, Burma's military junta, the State Peace and Development Council ("SPDC"), has held Aung San Suu Kyi and all members of the NLD's Central Executive Committee imprisoned or under house arrest, arrested dozens of NLD members, and shuttered the party's headquarters and all of its regional offices.

The violent attack and its aftermath dominate the political scene in Burma. Despite significant pressure from the United States, the European Union, Japan, and, to a lesser degree, ASEAN member countries, the Burmese junta has not take any constructive steps to resolve the crisis or to begin a real dialogue with the NLD and other political parties, including ethnic minority groups, on substantive political issues.

The U.S. government has intensified its pressure on the regime. In addition to new measures already mentioned, in June the Department of State expanded the scope of an existing visa ban that targets Burmese officials and others who inhibit a transition to democracy to include all officials of the government-affiliated Union Solidarity and Development Association and managers of state-owned enterprises and their immediate family members. On September 9, President Bush imposed further trafficking in persons-related sanctions on Burma, barring U.S. funding for Burmese government officials or

employees in educational and cultural exchange programs. The prohibition on the provision of financial services by U.S. persons created immediate difficulties for the Burmese government and Burmese businesses trying to use the international financial system.

The Government of Burma severely abuses the human rights of its citizens. There is no real freedom of speech, press, assembly, association, or travel. Burmese citizens are not free to change their government. More than 1,300 political prisoners are still in detention. Particularly troubling are the widespread serious abuses in ethnic regions including torture, rape, forced labor, and forced relocations. Limited but still insufficient steps have been taken to counter narcotics productions and trafficking. Although opium production has fallen for seven consecutive years, Burma remains the second largest producer of opium in the world. Burma is also the largest producer of methamphetamines in the region.

The United States continues to monitor the situation in Burma closely as developments unfold. We are working with countries in the region and other friends and allies toward a restoration of democracy and respect for basic human rights. In doing so, we shall not neglect urgent humanitarian needs. I will continue to report periodically to the Congress on significant developments as required by law.



John W. Snow

Department of the Treasury

November 21, 2003

Presidential Documents

Executive Order 13310 of July 28, 2003

Blocking Property of the Government of Burma and Prohibiting Certain Transactions

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Burmese Freedom and Democracy Act of 2003 (July 28, 2003), and section 301 of title 3, United States Code, and in order to take additional steps with respect to the Government of Burma's continued repression of the democratic opposition in Burma and with respect to the national emergency declared in Executive Order 13047 of May 20, 1997;

I, GEORGE W. BUSH, President of the United States of America, hereby order:

Section 1. Except to the extent provided in section 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)), the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106-387) (TSRA), or regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) the persons listed in the Annex attached and made a part of this order; and

(b) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State,

- (i) to be a senior official of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing; or
- (ii) to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

Sec. 2. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)), the TSRA, or regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, the following are prohibited:

(a) the exportation or reexportation, directly or indirectly, to Burma of any financial services either (i) from the United States or (ii) by a United States person, wherever located; and

(b) any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this order if performed by a United States person or within the United States;

Sec. 3. Beginning 30 days after the effective date of this order, and except to the extent provided in section 8 of this order and in regulations, orders,

directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to 30 days after the effective date of this order, the importation into the United States of any article that is a product of Burma is hereby prohibited.

Sec. 4. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 5. For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States; and

(d) the term "Government of Burma" means the Government of Burma (sometimes referred to as Myanmar), its agencies, instrumentalities and controlled entities, and the Central Bank of Burma.

Sec. 6. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by or to persons whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in Executive Order 13047, and hereby prohibit such donations as provided by section 1 of this order.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to section 1 of this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13047, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 8. Determining that such a waiver is in the national interest of the United States, I hereby waive the prohibitions described in section 3 of the Burmese Freedom and Democracy Act of 2003 with respect to any and all articles that are a product of Burma to the extent that prohibiting the importation of such articles would conflict with the international obligations of the United States under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the United Nations Headquarters Agreement, and other legal instruments providing equivalent privileges and immunities.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and sections 3(a) and 4 of the Burmese Freedom and Democracy Act of 2003, other than the authority to make the determinations and certification to the Congress that Burma has met the conditions described in 3(a)(3) of the Act, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. The Secretary of State is authorized to exercise the functions and authorities conferred upon the President by section 3(b) of the Burmese Freedom and Democracy Act of 2003 and to redelegate these functions and authorities consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to determine, subsequent to the issuance of this order, that circumstances no longer warrant inclusion of a person in the Annex to this order and that the property and interests in property of that person are therefore no longer blocked pursuant to section 1 of this order.

Sec. 11. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

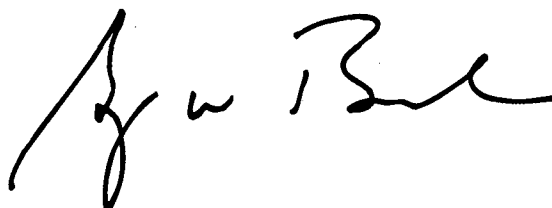
Sec. 12. Sections 1 through 7 of Executive Order 13047 are hereby revoked to the extent they are inconsistent with this order. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under Executive Order 13047, not inconsistent with section 3 of this order and not revoked administratively, shall remain in full force and effect under this order until amended, modified, or terminated by proper authority. The revocation of any provision of Executive Order 13047 pursuant to this section shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action under that order during the period that such provision of that order was in effect.

Sec. 13. All provisions of this order other than section 3 shall not apply to any activity, or any transaction incident to an activity, undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that was entered into by a United States person with the Government of Burma or a nongovernmental entity in Burma prior to 12:01 a.m. eastern daylight time on May 21, 1997.

Sec. 14. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

Sec. 15. This order is effective on 12:01 a.m. eastern daylight time on July 29, 2003.

Sec. 16. This order shall be transmitted to the Congress and published in the **Federal Register**.



THE WHITE HOUSE,
July 28, 2003.

Annex

The State Peace and Development Council of Burma

Myanma Foreign Trade Bank (a.k.a. Myanmar Foreign Trade Bank)

Myanma Investment and Commercial Bank (a.k.a. MICB; a.k.a. Myanmar Investment and Commercial Bank)

Myanma Economic Bank (a.k.a. Myanmar Economic Bank)

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